

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

IN RE: )  
 )  
Sid Boys Corp., ) Bankruptcy #21-42207 (ESS)  
 )  
Debtor. )  
\_\_\_\_\_ )

TRANSCRIPT OF:

[14] ADJOURNED CASE MANAGEMENT CONFERENCE

ADJOURNED FROM 10/28/21 12/16/21 2/17/22 3/24/22 5/5/22  
5/27/22 7/5/22 7/28/22 8/29/22 9/21/22 10/31/22 11/10/22  
11/30/22 12/21/22

[44] ADJOURNED MOTION TO CONVERT CASE CHAPTER 11 TO 7/MOTION  
OF 514 FIOTO PROPERTY CORP. AND 518 METROPOLITAN AVENUE CORP.  
FOR AN ORDER (I) DIRECTING DEBTOR TO IMMEDIATELY SURRENDER  
PREMISES DUE TO DEEMED REJECTION OF NON-RESIDENTIAL REAL  
PROPERTY LEASE AND (II) CONVERTING THE DEBTORS CHAPTER 11  
CASE TO A CASE UNDER CHAPTER 7 FILED BY THOMAS R. SLOME ON  
BEHALF OF 514 FIOTO PROPERTY CORP., 518 METROPOLITAN AVENUE  
CORP.

ADJOURNED FROM 5/5/22 5/27/22 7/5/22 7/28/22 8/29/22 9/21/22  
10/31/22 11/10/22 11/30/22 12/21/22

[46] ADJOURNED DEBTORS CROSS-MOTION TO DETERMINE THAT THE  
NONRESIDENTIAL REAL PROPERTY LEASE IN THIS CASE NEED NOT BE  
ASSUMED OR REJECTED AND THAT THE TIME TO ASSUME OR REJECT IS  
PURSUANT TO U.S.C. (d) (2) FILED BY RACHEL L KAYLIE ON BEHALF  
OF SID BOYS CORP. (RE: RELATED DOCUMENT(S) 44 MOTION TO  
CONVERT CASE CHAPTER 11 TO 7 FILED BY CREDITOR 518  
METROPOLITAN AVENUE CORP., CREDITOR 514 FIOTO PROPERTY CORP.)  
ADJOURNED FROM 5/5/22 5/27/22 7/5/22 7/28/22 8/29/22 9/21/22  
10/31/22 11/10/22 11/30/22 12/21/22

BEFORE THE HONORABLE ELIZABETH S. STONG  
THURSDAY JANUARY 26, 2023; 3:27 P.M.  
BROOKLYN, NEW YORK

## FOR THE DEBTOR:

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THE COURT: Finding

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1           THE CLERK: Calling the matters projected on the  
2 calendar on January 26, 2023, Numbers 32 through 34, Sid Boys  
3 Corp., 21-42207. Connected is Rachel Kaylie, Irene  
4 Siderakis, Thomas Slome, Dennis Yuelys -- I'm sorry if I  
5 mispronounced that -- Andrew Gottesman, Alanna Morgan, Keevan  
6 Morgan, and Nazar Khodorovsky. Can I just please ask the  
7 parties to state their names each time before speaking?  
8 Thank you.

9           THE COURT: All right, thank you. Good afternoon,  
10 everyone. Let's get your appearances on the record, please.  
11 Ms. Kaylie for the Debtor?

12           MS. KAYLIE: Good afternoon, Your Honor. Rachel  
13 Kaylie representing the Debtor, Sid Boys Corp. Thank you.

14           THE COURT: All right, thank you. Mr. Slome, 514  
15 Fioto Property and 518 Metropolitan?

16           MR. SLOME: Yes, Your Honor, thank you. Good  
17 afternoon. Thomas Slome from Cullen & Dykman for those two  
18 Creditors. The one you said first is the Landlord. The  
19 second is often referred to as the Judgment Creditor. And  
20 I'll just mention, because I think it's his first time on one  
21 of these, the accountant for my client, Dennis Yuelys is on  
22 the line. He wanted to -- I think it's listed -- it may be  
23 listen only. I'm not sure. But he wanted to see the  
24 hearing. Thank you.

25           THE COURT: All right, good. Glad to know. Mr.

1     Gottesman for Marcum, LLP?

2                 MR. GOTTESMAN: Good afternoon, Your Honor. Andrew  
3     Gottesman from Mintz & Gold for Marcum, LLP. They are the  
4     accountants helping the Debtor with projections for the Plan.

5                 THE COURT: All right, thank you. Ms. Morgan,  
6     former counsel for the Debtor?

7                 MS. MORGAN: Good afternoon, Your Honor. Alanna  
8     Morgan on behalf of myself as an administrative claimant.

9                 THE COURT: Thank you. And Mr. Morgan, same  
10    circumstance, I think?

11                MR. MORGAN: Yes.

12                THE COURT: All right, thank you. Good to have you.  
13    Mr. Khodorovsky for the Office of the United States Trustee?

14                MR. KHODOROVSKY: Good afternoon, Your Honor. May  
15    it please the Court. Nazar Khodorovsky for the United States  
16    Trustee. Thank you so much, Your Honor.

17                THE COURT: All right, thank you everybody for your  
18    appearances. Thank you for your correspondences. I am doing  
19    my best to keep up with the filings through and including  
20    yesterday afternoon, and they've been informative. I'm sorry  
21    the news. The news they relayed in the narrative they tell,  
22    I'm sorry it's not more good news looking there, but it's at  
23    least good to know where things stand. I'd like to begin  
24    with Case Management. Let me just summarize that the things  
25    on the calendar today are Case Management. (Indiscern.)

1 hearing and the Motion to Convert or, I believe, to Dismiss,  
2 and for the immediate surrender of the property and other  
3 kinds of things of Mr. Slome's client, the Creditors. It's  
4 on the calendar today.

5 The Cross-Motion of the Debtor having to do with the  
6 Time to Assume or Reject and, of course, the new issue that  
7 is -- that has occurred by the passage of time with respect  
8 to confirmation. Let's begin with the Case Management. I'd  
9 like to hear from Ms. Kaylie. Ms. Kaylie, I think we're in a  
10 tough spot, but I want to hear from you, and I want to hear  
11 from you. I always want to hear from everyone and figure out  
12 what the smoothest path forward -- sorry, that's hard to say  
13 -- is at this point. Over to you.

14 MS. KAYLIE: Good afternoon, Your Honor. Rachel  
15 Kaylie for the Debtor, for the record. Your Honor had given  
16 my client an adjournment from December because she had,  
17 unfortunately, some very severe kidney problems, including  
18 emergency surgery. So, I want to thank the Court for that  
19 courtesy. Unfortunately, she still has (inaudible).

20 THE COURT: Of course. And the same would be  
21 extended to any party, and I hope all is well. Back to you.

22 MS. KAYLIE: Absolutely, Your Honor. Hopefully,  
23 eventually she will, but she's still dealing with some issues  
24 but should be all right. As far as the diner is concerned,  
25 Kellogg's Diner, it continues to operate, and it's doing

1 quite well. My client has -- was able to continue with the  
2 comedy shows that are in the back of the diner. That brings  
3 in a lot of business. I know that Thanksgiving was extremely  
4 busy and bringing in quite a bit of revenue and the holidays  
5 in general brought in quite a bit of revenue.

6 My client continues to be current. I know the latest  
7 quarterly fee for the Trustee was paid on or around January  
8 12. I don't know if it's been received or processed yet, but  
9 I know the payment went out January 12. So, it should be  
10 current, even if it's -- I'm not sure if it's been processed,  
11 but it was sent out. Also, all insurances have been updated.  
12 She has one insurance that is due to expire in February.  
13 That's already been paid for and taken care of from the  
14 worker's comp insurance. So, even though it's a little bit  
15 early, that has been taken care of. So, all insurance is,  
16 and including the worker's comp, has been taken care of.

17 The prior insurance that lapsed, it was supposed to  
18 lapse in September, which was renewed finally. It was  
19 already provided to the U.S. Trustee. I believe it was a  
20 month or so ago, but there was no lapse in the insurance. So  
21 I'm not sure (inaudible). So, as far as those things are  
22 concerned, the operating reports have been filed timely. So  
23 as far as Case Management, that's where we are.

24 THE COURT: All right. A part of Case Management in  
25 a Chapter 11 case, of course, is the progress that we're



1 making toward a Plan, and it's noted in Mr. Slome's letter on  
2 behalf of his client. And it does seem consistent with both  
3 the Docket, the dates on the Docket and the Bankruptcy Code,  
4 that the deadline for the Debtor to confirm a Plan is past  
5 with a Motion to Modify that deadline. There certainly was  
6 no Order entered extending the deadline, and it's a  
7 particular aspect of this Code provision. We double checked  
8 last night to be sure that the Order Extending the Time is  
9 signed before the existing deadline is expired.

10 So, it does seem like a Plan confirmation is no longer  
11 possible in this case, which means that, from the standpoint  
12 of Case Management, I'm thinking about where do we go from  
13 here? The suggestion in the motion is a Chapter 7  
14 conversion. I don't even know that an operating Trustee  
15 would be able to work around the limitation of Bankruptcy  
16 Code Section 1129. It's conceivable that there's some way  
17 that the appointment of an Operating Trustee would reset that  
18 deadline. But are we looking at conversion at this point,  
19 Ms. Kaylie?

20 MS. KAYLIE: Well, Your Honor, if I may address  
21 that, when we were last in Court in November, Your Honor had,  
22 upon motion, extended one more time -- time to confirm a  
23 Plan. And Your Honor made it abundantly clear that there was  
24 a firm deadline of December 30th, giving us one final chance  
25 to try to settle into a space and asking me to confer with

1 Mr. Slome as the attorney for the Secured Creditors' last  
2 landlord.

3 Mr. Slome and I did have conversations about that. And  
4 Mr. Slome made it abundantly clear that the terms that his  
5 client was willing to settle, which were basically not only  
6 would he -- would they not reduce the amount owed, all they  
7 were willing to do was stretch out the payments to eight  
8 years rather than it would be five or six years than it would  
9 have been at an interest rate that would've ended up my  
10 client paying more. He also insisted that there would be  
11 personal guarantees. My client is a single mother whose, you  
12 know, husband passed away, and she is not in any position to  
13 personally guarantee a newly revised lease or promissory  
14 note, which is what Mr. Slome offered. There were no other  
15 concessions on the part of the landlord, which we believe  
16 they were not exactly negotiating in good faith, simply, and  
17 offered, you know, quite a bit of money to resolve this.

18 Mr. Slome also made it clear he knew that without any  
19 concession on the part of the landlord/Secured Creditor that  
20 there could not be formation of a Plan. So, Your Honor, I --  
21 we appreciate the opportunity to extend this to December  
22 30th. You know, my client, like I said, was not in a  
23 position to accept the terms that were dictated in bad faith  
24 by Mr. Slome's clients. I don't know what the settlement  
25 negotiations were when the Morgan's were having a

1 negotiation. I was not privy to that.

2 But it seems to me that if they were going to settle  
3 last summer, they seemed to indicate that they were going to,  
4 that they would have. The Morgans weren't terminated until  
5 November, and it seems to me that if there was going to an  
6 Amended Plan that could've had a chance of being confirmed,  
7 that that would've been done before the Morgans were  
8 terminated and Mr. Slome in his letter says that, you know,  
9 as long as they were around, there was a chance with them  
10 last summer. But it's been my contention all along. The  
11 landlord, really, was never interested in negotiating in good  
12 faith and really had no intention of trying to resolve this  
13 so that everybody walks away with something rather than  
14 taking back the diner.

15 So, Your Honor, there -- you know, after having  
16 discussions with my client's accountant and with the client  
17 from Marcum, it was very clear that because the -- without a  
18 settlement from the landlord that we could not -- couldn't  
19 even come close to confirming a reasonable Plan. And I  
20 didn't feel it would benefit the Estate to continue to rack  
21 up legal fees unnecessarily when it was very clear that the  
22 landlord, really, had no intentions of trying to settle.

23 THE COURT: All right. Well, I do see in the letter  
24 different perspectives on those issues, and they're hard  
25 issues, hard issues. It's always good to hear, on the one

1 hand, how well the business is doing, but then it's tough to  
2 hear that stretching out the arrears for years and years -- I  
3 think you said eight years, and the terms of your  
4 negotiations are between you. But for a lot of time, and  
5 they're not talking eight weeks or eight months. You're  
6 talking years. But that won't work. That's okay.

7       You don't have to settle. You don't have to agree. And  
8 I will -- you know, if I convert the case today, I will know  
9 that we have all tried, certainly the Court has tried as hard  
10 as I can with every tool I've got and then some, to see what  
11 the opportunities are to find that consensual path with a  
12 business that, despite this bleak picture that you describe  
13 about negotiations and the inability to catch up on arrears,  
14 even over an eight-year period and looking at a large balance  
15 in the DIP account. I've got your most recent monthly  
16 operating report. I had it, and I just put it somewhere, I  
17 guess.

18       But anyway, looking at -- here it is -- the DIP account  
19 balance, \$827,000. And even with all those good facts still  
20 not able to get it done, I'm disappointed, but it's all  
21 right. You don't have to settle. Ms. Siderakis does not  
22 need to do a personal guarantee. Mr. Slome and his clients  
23 do not -- the Creditors do not need to accept less than  
24 they're due or stretch out for 18 years instead of 8 years or  
25 some other number of years to the amount owed. It's okay,

1 even though I really hoped it would work out, and I'm sure  
2 you all have too.

3 I don't know how productive it is to talk about good  
4 faith or bad faith. Those are big words. And the record  
5 will speak for itself. I -- from my perspective, I've seen a  
6 very sincere effort by everyone, specifically including Ms.  
7 Siderakis and all counsel, to see if there is something that  
8 can be done here to keep a diner in place here. And I've  
9 heard that not only from the Debtor, but also from the  
10 lender. But where we are is where we are.

11 The date has passed. You know, the disputes had just  
12 passed, and I -- so I suppose this is just a question of  
13 where do we go from here. It's now January 26, and we have a  
14 Chapter 11 case clearly in a posture where a Chapter 11 Plan  
15 can't -- it was sufficiently clear that a Plan can't proceed,  
16 that it -- never mind filing a Plan. It wasn't even worth  
17 the time and expense of filing a Motion to Extend the Time by  
18 the Debtor. And again, that's okay. Case Management  
19 decisions, what motions to make, that's up to the party, not  
20 the Court. So, Ms. Kaylie, if you have anything to add, I'll  
21 -- on Case Management, I'll invite you to do so now, and then  
22 we'll hear from Mr. Khodorovsky.

23 MS. KAYLIE: I do, Your Honor. Thank you for the  
24 opportunity. Rachel Kaylie for the Debtor, for the record.  
25 In addition to -- and I believe I mentioned it briefly in my

1 status letter. In addition to this bankruptcy, my client --  
2 by "my client," I mean Ms. Siderakis. I know she's not --  
3 she's the principal for the Debtor. This whole thing started  
4 when her husband passed away in 2018 at a young age, leaving  
5 her, you know, a widow with four children. And she had a  
6 medical malpractice case against the doctors for -- on behalf  
7 of his Estate.

8 And the landlords, in addition to this action and the  
9 bankruptcy, Mr. Siderakis -- Christopher Siderakis, the  
10 husband, had personally guaranteed, not the promissory note,  
11 but he personally guaranteed the lease. And they do have a  
12 pending action in state court for -- this should be on, I  
13 believe, oral argument in April for Summary Judgment. So I  
14 would ask, just as a courtesy, that whatever decision we --  
15 the Court wants to make that I think it will be greatly  
16 affected by what happens in the state court. So I would ask  
17 for an adjournment based on that so that we can have all the  
18 factors because if they get a judgment against the Estate --

19 THE COURT: But, Ms. Kaylie, what would change?  
20 What would change? No matter what the state court decides, I  
21 don't know how I can possibly keep this case open in Chapter  
22 11 in this mode through April and whenever a decision comes  
23 after that, if that's what you're suggesting.

24 MS. KAYLIE: Well -

25 THE COURT: And how would that change the fact that

1 the Debtor can no longer confirm a Plan?

2 MS. KAYLIE: Well, Your Honor, what it would mean  
3 is, well, is if they get the medical malpractice law suit,  
4 the money from that, that's roughly \$450,000 or so, between 4  
5 and 500,000. That could affect the Plan -- the management of  
6 this case, whether it's in a 7 or an 11.

7 THE COURT: So, there'd be an oral argument? Oral  
8 argument is scheduled for April?

9 MS. KAYLIE: That's my understanding.

10 THE COURT: And so when -- and that is a personal --  
11 an individual case?

12 MS. KAYLIE: It is, Your Honor.

13 THE COURT: Right. (Indiscern.) right. So these  
14 are very sad circumstances, and I so appreciate that.

15 MR. KAYLIE: That's why (indiscern.) my client --  
16 And then maybe you'll win, and maybe you won't, and it could  
17 take months to get that decision. And then, if you're  
18 successful, there might be an appeal if you're successful in  
19 a big way. And, after that, then there'd be question of  
20 collection. You know, Ms. Siderakis can -- I suppose if  
21 that's a source of funds to save the case, there's a way to -  
22 - if that case was settled in December, we'd have that money  
23 now, and maybe it'd bridge the gap. But it wasn't, and we  
24 don't, and I can't just put this case on hold for a year or  
25 even six months to let a Motion for Summary Judgment in an

1 unrelated non-Debtor proceeding get argued, decided,  
2 finalized through an appeal or not, and then collected on.  
3 I -

4 MS. KAYLIE: Your Honor, I'm just asking  
5 (indiscern.) oral argument in April.

6 THE COURT: Ms. Kaylie, I'm going to say it again.  
7 We have a Chapter 11 case, and we can no longer confirm a  
8 Plan. I -- the option sought by the Secured Creditor is  
9 conversion. I've wondered -- you know, a Trustee coming in,  
10 a Trustee hiring their own professionals. The one thing this  
11 case does not need is another layer of expense. We have  
12 challenges there already. But we need a change. And putting  
13 this all out 6 to 12 months is not the change that this  
14 record would permit. We're going to need to hear next on  
15 Case Management from Mr. Khodorovsky. Mr. Slome, I see your  
16 hand. You'll be next after that. Mr. Khodorovsky, over to  
17 you. Difficult situation --

18 MR. KHODOROVSKY: Thank you so much.

19 THE COURT: -- but we need to fast forward.

20 MR. KHODOROVSKY: Thank you so much, Your Honor.  
21 Nazar Khodorovsky for the United States Trustee. Your Honor,  
22 Debtor's counsel is correct. The Debtor is current with  
23 quarterly fees that are current with operating reports.  
24 However, Your Honor, as the landlord counsel has mentioned,  
25 as Your Honor has mentioned, the Debtor's deadline to confirm



1 a Plan in the small business case has come and gone. The  
2 Debtor has not sought to extend it, so the deadline is gone.  
3 There are several options left here in this case. The case  
4 can be converted to a Chapter 7. The case can be dismissed,  
5 or the -- or Your Honor can appoint a Chapter 11 Trustee.

6 A question Your Honor has raised is whether, if there  
7 was a Chapter 11 Trustee, whether the Trustee could file a  
8 Plan, notwithstanding the deadline. It's historically been  
9 the United States Trustee's position, and, Your Honor, it --  
10 Judge Drain in a case some years ago, has ruled on this  
11 issue, I believe. And I apologize, Your Honor. The case  
12 doesn't come to mind. If -- so there's several deadlines for  
13 small business Plans involved in those cases, a 300 day  
14 deadline, and there is a -- then there's a 45-day deadline  
15 after that to confirm.

16 So in Judge Drain's ruling, Judge Drain was appointing a  
17 Chapter 11 Trustee sometime close to the 300-day deadline or  
18 even, if I remember, it was even possibly after that. And  
19 the Court determined that the Chapter 11 Trustee could file a  
20 Plan, notwithstanding the 300-day deadline because,  
21 ultimately, Trustees are appointed, sometimes, very late in  
22 the case. If a Chapter 11 Trustee is, say, appointed on the  
23 299th day of a case, then, you know, a Trustee should be  
24 given a chance to file a Plan and administer an Estate. If,  
25 for example, I'm not saying it in this case, but as a

1 hypothetical, if there's a Section 1104(e) violation that  
2 only becomes known on day 298 of a case, and the Court  
3 appoints a Chapter 11 Trustee on day 299, then ultimately,  
4 binding the Trustee and giving the Trustee one day to file a  
5 Plan is somewhat inequitable. Be that as it may, Your Honor,  
6 although it's --

7 THE COURT: On that same day or in the appointment  
8 ordered, so long as it's entered before the 300th day, the  
9 time could be extended. But --

10 MR. KHODOROVSKY: That's correct, Your Honor.

11 THE COURT: -- you know, lots of things, if an order  
12 was entered in a timely way, would be possible but aren't if  
13 it isn't. But I can appreciate those points. I'm not sure  
14 that any of the papers, and we have a lot of papers, suggest  
15 the prospect of an Operating Trustee. It's always a tool  
16 available to the Court under certain circumstances, typically  
17 after a notice in a hearing. That may be in the Code. I'm  
18 not sure that it's what we need here. We have tried and  
19 tried and tried, and I actually don't see glaring  
20 deficiencies in the good efforts of the parties to try to get  
21 to closure with some kind of an agreement. Back to you, Mr.  
22 Khodorovsky.

23 MR. KHODOROVSKY: Thank you so much, Your Honor.  
24 That having been said, Your Honor, the U.S. Trustee's  
25 preferred positions here would be neither conversion nor

1 Chapter 11 -- I'm sorry, neither dismissal nor a Chapter 11  
2 Trustee. The U.S. Trustee's preferred position in this case  
3 will be conversion of this case to Chapter 7. There are  
4 aspects in this case Your Honor has mentioned. There's a  
5 balance of funds in the DIP account. There are assets in  
6 this case. There's even a possibility of potential claims  
7 against the principal. So, Your Honor, I do think it's the  
8 U.S. Trustee's view that Chapter 7 would be preferable to  
9 either a dismissal or appointment of a Chapter 11 Trustee.  
10 Thank you, Your Honor.

11 THE COURT: All right. Thank you, Mr. Khodorovsky.  
12 Mr. Slome, you're next.

13 MR. SLOME: Yes, Your Honor. Thomas Slome of Cullen  
14 & Dykman. I -- we did not move for the appointment of a  
15 Chapter 11 Trustee. I don't think it would be appropriate.  
16 We -- I doubt we would agree to any kind of a Plan. But I  
17 want to let you know, and I did speak to Ms. Wolf about this  
18 a day or two ago. And I said this in open court. We filed  
19 papers saying this. We would explore, I can't guarantee it,  
20 but I'm pretty sure we would go along with an Operating Order  
21 with a Chapter 7 Trustee, assuming there was a Chapter 7  
22 Trustee willing to manage the diner pending a sale. We'd  
23 have a 3 or 4 month -- whatever made sense to the Chapter 7  
24 Trustee, of course, a marketing campaign and sell the diner.  
25 I'm not going to go through the good faith/bad faith

1 stuff. I think it's quite the opposite. I can -- I was  
2 prepared to basically go through this case and actually prove  
3 why we've been in good faith and maybe others have not. But  
4 I agree with Your Honor. There's no point. There can be no  
5 Plan in this case. If there could be a Trustee Plan, I doubt  
6 that Plan could be confirmed without our consent very much.  
7 And we can accomplish keeping this diner open and maximizing  
8 distributions for Creditors with an Operating Trustee.  
9 Discussed some names with Ms. Wolf. And at least two came up  
10 for who we think would probably be perfect for the job.

11 And, you know, we could sell the diner, maximize  
12 proceeds. And not only would the \$700,000 sitting in the  
13 account be available for Creditors with claims well over a  
14 million dollars, but we might, that way, get the landlord and  
15 the creditor paid and leave even more money for the  
16 unsecureds. And as far as the law suit by my clients, it's  
17 really the landlord only, against the Estate on the  
18 guarantee, the Estate has filed, you know, papers. You know,  
19 I'm having a little trouble because I have a cold. But  
20 papers, you know, vociferously saying there should be no  
21 Summary Judgment and, if anything, it should be dismissed in  
22 their favor, and they should have relief against us, like,  
23 for \$10,000 for an administrative Code thing related to  
24 COVID. I took a quick glance at the papers.

25 That case is not getting resolved for quite some time.

1 The best thing that can happen in that Estate would be that  
2 we sell the diner. My client gets paid in full, both of  
3 them. Creditors will probably get half a million bucks or so  
4 give or take, maybe more, and that Estate will be left alone,  
5 and Ms. Siderakis and/or her children were beneficiaries of  
6 that Estate will probably collect the money, and we won't, at  
7 that point, you know, need to pursue our rights. So  
8 everything, in my mind, lines up for a Chapter 7 conversion,  
9 Your Honor.

10 THE COURT: And when you say "Operating Trustee,"  
11 just for the sake of a complete record and also because, you  
12 know, different clients -- counsel may have different levels  
13 of experience with that. In a Chapter 11 case, including  
14 where it looks like maybe there's something difficult or  
15 untrustworthy, which is not what anyone is suggesting here,  
16 there can be reasons to have an Operating Trustee to manage  
17 the Chapter 11 case. A separate way that that phrase can be  
18 used, and in which I think you have just used is it, is when  
19 the case is in Chapter 7 -- I have several of these now --  
20 there's a Code provision that permits, on notice, the Chapter  
21 7 Trustee to continue to run the business, to continue to  
22 keep the lights on and the workers paid and the pancakes or  
23 whatever it is. I don't know. I'm speculating about a diner  
24 menu, with which I do have some experience, though not this  
25 one in particular. So that's what you mean, a Chapter 7

1 Trustee with the authority to operate the business for a  
2 period of time, something like that, right?

3 MR. SLOME: Yes, Your Honor. I spoke imprecisely.  
4 I meant a Chapter 7 Trustee --

5 THE COURT: No, you spoke precisely.

6 MR. SLOME: -- that's operating.

7 THE COURT: It's just that we used the same phrase  
8 in different ways in two chapters. That's all. So that's --  
9 those are some of the issues so far. Mr. Gottesman for  
10 Marcum, anything to add from your perspective?

11 MR. GOTTESMAN: Nothing to add, Your Honor. You  
12 know, training has taught me to keep my head out of the  
13 lion's mouth whenever possible.

14 THE COURT: All right. I think it might be helpful  
15 to permit counsel -- just counsel for now. You've all got  
16 your clients here too. We can move them into the room, if  
17 it's appropriate. I just want to take a couple minutes to  
18 not talk at each other but with each other about what a next  
19 step might look like. It sounds like there's been some  
20 preliminary exploration of what is nobody's first choice ever  
21 in this case, but maybe the second choice or, from the  
22 Debtor's standpoint, the not a choice, but where-we-are  
23 situation and just have a -- kind of an exchange on that that  
24 I'm guessing, in view of the correspondence that I see you  
25 haven't had up to this point, some of the possibilities

1     you've reviewed with the U.S.T's office, for example, and how  
2     this can be a different path forward, not a failure and  
3     collapse, but a different path forward in a case.

4             And it sounds like, in a situation like this, that the  
5     Chapter 7 Trustee in a conversion could be appointed as  
6     opposed to just off the wheel with some considerations of the  
7     particular needs of the case, is that right, Mr. Slome?

8             MR. SLOME: I mean, I think that --

9             THE COURT: Mr. Khodorovsky?

10            MR. SLOME: I'm sorry. Thomas Slome with Cullen &  
11     Dykman. I believe there are at least two panel Trustees, if  
12     not more, who could -- who have done this and could easily do  
13     it. I have no desire to go off the panel. I think we have  
14     qualified people on the panel.

15            THE COURT: Sure.

16            MR. SLOME: I'm happy to consider anything.

17            THE COURT: I think if a Chapter 7 case is filed in  
18     five minutes, the Trustee -- you know, a brand new case, the  
19     Chapter 7 Trustee would get that in a process that has no --  
20     that is a randomized process. But when a case is converted,  
21     it's not necessarily a randomized process. It's a question  
22     of coming up with the appropriate person for the  
23     circumstance. That's all I'm trying to confirm, is that  
24     right, Mr. Slome?

25            MR. SLOME: Yes. Yes, Your Honor.

1 THE COURT: Okay, all right. So, all right.

2 MR. KHODOROVSKY: Your Honor, may I? Nazar  
3 Khodorovsky for the U.S. Trustee.

4 THE COURT: Yes. Yes, please. Mr. Khodorovsky and  
5 then Ms. Kaylie.

6 MR. KHODOROVSKY: Thank you, Your Honor. Nazar  
7 Khodorovsky for the U.S. Trustee. Your Honor, if the case is  
8 converted to a Chapter 7, the United States Trustee retains a  
9 discretion to appoint a Chapter 7 Trustee. And if the  
10 Trustee -- and if the Creditors are dissatisfied with the  
11 choice, Creditors can seek a Trustee Election. Thank you,  
12 Your Honor.

13 THE COURT: Thank you and helpful. Ms. Kaylie, over  
14 to you. And I think you had indicated -- when someone comes  
15 off mute, I assume that you have something to say. Over to  
16 you.

17 MS. KAYLIE: That's right. Your Honor, Rachel  
18 Kaylie for the Debtor, for the record. I would just like to  
19 know who Mr. Slome is thinking of as the two Trustees who he  
20 believes could best handle a diner-type case.

21 MR. KHODOROVSKY: Your Honor --

22 THE COURT: (Indiscern.).

23 MS. KAYLIE: -- Nazar Khodorovsky for the U.S.T. I  
24 strongly oppose discussing this on the record, Your Honor.  
25 That is far away from --



1 THE COURT: Let's get you in a Zoom room. Yes, yes,  
2 I agree. I agree. You can talk about whatever you want.

3 MS. KAYLIE: I didn't (inaudible) --

4 THE COURT: You can talk about --

5 MR. KHODOROVSKY: Thank you, Your Honor.

6 THE COURT: -- how cold it was this morning, but --  
7 or that it rained a lot yesterday. But if there's any  
8 productive engagement that can occur off the record, I urge  
9 you to do it, and I'm going to direct you to do that to begin  
10 with. And I think the right group would be current counsel  
11 for the Debtors, Ms. Kaylie, Mr. Slome, Mr. Khodorovsky. I  
12 mean no disrespect to Mr. Gottesman, but I don't think your  
13 client has got a big piece of this picture, is that okay with  
14 you? I want the -- I (indiscern.) appear. Ms. Morgan and  
15 Mr. Morgan, you're here now as Administrative Creditors. I  
16 don't -- you know, your view is going to be very important at  
17 some point but not necessarily for this next round, I don't  
18 think, is that okay with you?

19 MR. MORGAN: We would not want to be in the meeting  
20 this afternoon, Your Honor. They can talk about it.

21 THE COURT: There you go.

22 MR. MORGAN: And later on, we'll see what happens.

23 THE COURT: All right.

24 MR. MORGAN: Thank you very much.

25 THE COURT: So we're going to refer to the

1 conference room. I'll point to the door, but Ms. Jackson  
2 will do this by Zoom for I think this will be Ms. Kaylie, Mr.  
3 Slome, and Mr. Khodorovsky, yes?

4 MS. SIDERAKIS: (Indiscern.).

5 THE COURT: I don't think clients at this point.

6 MS, SIDERAKIS: Okay.

7 THE COURT: Ms. Siderakis, no disrespect. Actually,  
8 with the greatest respect. And I need everyone to be  
9 thinking about helping identify the next step in the case.  
10 We're not talking about the failure of the case. We're  
11 talking about the next step of the case. So we are in a  
12 situation where Debtor's counsel has indicated, and it's  
13 thoughtful and candid that it wasn't even worth the trouble  
14 or the additional expense to the Debtor of making a motion  
15 further to extend this deadline, which is now past. So,  
16 let's give you that opportunity, and then we'll come back in  
17 just a few minutes, or you can have as long as you want. But  
18 do all the good work you can, please.

19 But otherwise, we'll come back whenever you're done, but  
20 it's going to be at least five minutes because it's going to  
21 be at least five minutes. Because if you haven't taken five  
22 minutes, I'm not satisfied you've done all the good work that  
23 can be done. There's a new fast forward being described.  
24 Mr. Slome has some information. Ms. Kaylie has an interest  
25 that makes sense. We can then let you talk to your clients

1 if you want. Anyway, please and thank you. Off you go.

2 MS. KAYLIE: Your Honor, I just want to thank you  
3 for the opportunity.

4 THE COURT: Ms. Kaylie, that was unexpected. Thank  
5 you very much. Thank you back. Go use it well. Good luck.

6 (Attorneys confer off the record)

7 THE COURT: We are on the -- we're back on the  
8 record, Ms. Jackson?

9 THE CLERK: A second call on the Sid Boys matters.  
10 Please, parties, remember to state your name each time before  
11 speaking. Thank you.

12 THE COURT: All right, thank you. Good afternoon  
13 again, everyone. It's good to see you. We have the parties  
14 back. You've had a good opportunity to confer off the record  
15 in a Zoom room. Who would like to bring the Court up to date  
16 with the status of things? Ms. Kaylie or Mr. Slome, who  
17 would like to go first?

18 MR. SLOME: Ms. Kaylie is fine.

19 MS. KAYLIE: I will, Your Honor. Rachel Kaylie for  
20 the Debtor, for the record. Your Honor, so Mr. Slome and Mr.  
21 Khodorovsky and I had a lengthy, detailed discussion  
22 regarding if Your Honor is to convert this to a 7 what the  
23 next steps would be, in particular, the appointment of a  
24 Chapter 7 Trustee and what those -- who the Chapter 7 Trustee  
25 might be. We did discuss a few possibilities. And Mr.

1 Khodorovsky asked us to each submit to him the specific  
2 qualifications we might -- would want in a Chapter 7 Trustee  
3 to oversee and operate the business, whether to sell it or to  
4 operate it or whatever the case might be.

5 So, Mr. Slome and I are going to each come up with our  
6 own list of qualifications. Hopefully, they will mostly  
7 coincide. Submit it to Mr. Khodorovsky, and obviously, the  
8 U.S. Trustee gets the final decision as to who they want to  
9 submit to the Court. But thankfully, that would be in  
10 conjunction with Mr. Slome and my input as to the potential  
11 candidates for that.

12 MR. SLOME: Your Honor.

13 MS. KAYLIE: I'm sorry, Your Honor.

14 THE COURT: Ms. Kaylie, is the basis -- does the  
15 Debtor have a basis in this -- at this point in the case  
16 that's in the entire record? Does the Debtor have a basis in  
17 law or fact to oppose the conversion of the case to one under  
18 Chapter 7?

19 MS. KAYLIE: Your Honor, it's kind of a loaded  
20 question. It's very difficult to answer that.

21 THE COURT: No, I ask that question in lots of  
22 cases.

23 MS. KAYLIE: No, I understand that.

24 THE COURT: It's not loaded. I don't mean it as a  
25 loaded question. Perhaps we'll hear from Mr. Slome. Perhaps

1 I'll circle back to Ms. Kaylie.

2 MS. KAYLIE: I would appreciate that, Your Honor.

3 THE COURT: All right. Mr. Slome, let me hear from  
4 you.

5 MR. SLOME: Your Honor, Thomas Slome, Cullen &  
6 Dykman. Ms. Kaylie summed up our conversation with Mr.  
7 Khodorovsky. Essentially, Ms. Kaylie wanted to know kind of  
8 how it works, next steps with respect to a conversion  
9 appointment of a Trustee Operating Order. And Mr.  
10 Khodorovsky indicated that, you know, as far as parties, the  
11 U.S. Trustee always welcomes input on that. They'd rather  
12 have skill sets than suggestions for Chapter 7 Trustees, but  
13 I guess parties are free to do both or either.

14 And, you know, it's possible that Ms. Kaylie and I would  
15 work together and try to come up with a common list. Maybe I  
16 would have some skill set factors I'd want to add and  
17 disagree with one or two. But that would be the process that  
18 would happen once Your Honor announced, you know, that Your  
19 Honor would convert the case. And then it may take a day or  
20 so for an Order to be entered. And usually, the appointment  
21 of a Trustee happens, you know, almost immediately  
22 thereafter. And that's about what we covered, Your Honor. I  
23 mean, you know my position on conversion. I don't think  
24 there is a -- I think even before the latest December 30th  
25 deadline passing, there were grounds. As Your Honor knows,

1 we had oral argument on that in November due to the lease  
2 deemed rejection, and now, it just adds to it.

3 And, you know, again, I think the best result here for  
4 everyone would be to see an orderly sale process. Again, I  
5 can't -- I think the Trustee is going to need some consent  
6 from us. I'm telling you my clients do not want to run this  
7 diner. But in the event that, you know, there was no choice,  
8 there were no buyers, et cetera, they would do that. But  
9 ideally, it would be a bankruptcy sale. We all know there's  
10 benefits to a bankruptcy sale that we couldn't get in a  
11 private sale. So that's kind of where things stand.

12 THE COURT: And, you know, anything can go anywhere,  
13 but those are good points, and they're thoughtfully made, and  
14 it does, I think, reflect the overall condition and state of  
15 the record at this point, January 26, 2023, in this Chapter  
16 11 case that was filed, gosh, a while ago. It's a -- the  
17 case number begins with a 21, not for a lack of effort and  
18 not for a lack of, in my view, good faith from every quarter  
19 and huge efforts that we find ourselves at this stage. Mr.  
20 Khodorovsky, anything to add to the record?

21 MR. KHODOROVSKY: Your Honor, Nazar Khodorovsky for  
22 the U.S. Trustee. Not at this time. I think the parties  
23 summarized the conversation well. Thank you, Your Honor.

24 THE COURT: All right, thank you. And we have the  
25 position of the Movant. You've indicated, I think,

1 previously your position, but just for the sake of the  
2 complete record and on the basis of any further  
3 conversations, Mr. Khodorovsky, what would be the position of  
4 the Office of the United States Trustee and the question  
5 presented by the Creditors motion?

6 MR. KHODOROVSKY: Your Honor, Nazar Khodorovsky for  
7 the U.S. Trustee. Among the options presented by the motion  
8 by Mr. Slome, the options being dismissal, conversion, or the  
9 appointment of a Chapter 11 Trustee, the U.S. Trustee would  
10 prefer conversion of this case to Chapter 7. Thank you, Your  
11 Honor.

12 THE COURT: And if those options included as well  
13 the appointment of a Chapter 11 Trustee, may I hear your  
14 further thoughts?

15 MR. KHODOROVSKY: Your Honor, Nazar Khodorovsky for  
16 the U.S. Trustee. That would still be our option,  
17 conversion. Thank you, Your Honor.

18 THE COURT: All right. Ms. Kaylie, anything to add?  
19 I won't repeat the question if you prefer that I don't.

20 MS. KAYLIE: I have nothing further. No.

21 THE COURT: All right, thank you.

22 MS. KAYLIE: (Indiscern.).

23 THE COURT: All right. For the Court in the Chapter  
24 11 case, Sid Boys Corp., as I continue our Case Management  
25 Conference, and we've made a full record on the status of

1 things. There's much good news there, but there's also the  
2 challenging news and the news that can't be avoided because  
3 of what the calendar tells us and what the Docket tells us  
4 that the time for the Chapter 11 Debtor to confirm a Plan is  
5 past and has not been extended.

6 We have the Motion to Convert this case from one under  
7 Chapter 11 to one under Chapter 7 and for other relief. That  
8 motion has been before the Court from time to time, and it  
9 has been the frame within which the parties have attempted to  
10 find the best path forward with some progress, but  
11 ultimately, without success.

12 And I say "some progress" because we have been working  
13 since the first hearing back in May of 2022 until now,  
14 January 2023, through the summer season, through the holiday  
15 period, with good results and a healthy balance in the DIP  
16 account that's sadly no longer a prospect under the  
17 Bankruptcy Code to confirm a Plan nor an agreement with the  
18 principal Creditors that would likely be necessarily part of  
19 a Plan. Not for a lack of trying to be sure, not for lack of  
20 trying in the Court's assessment by all the parties. You  
21 haven't found common ground, but that doesn't mean you  
22 haven't made a common effort, and I thank you for it, and I  
23 appreciate it.

24 I also thank -- I thank the Creditor and the Creditor's  
25 principal for an ongoing open mind to a resolution. I



1 realized you didn't get there. And I thank the Debtor and  
2 the Debtor's principal who made enormous efforts, productive  
3 efforts to preserve value in the Chapter 11 case. It's why  
4 we've got something to talk about today, and that's a going  
5 concern.

6 And in a context of a lot of challenges -- a lot of  
7 opportunities, but a lot of challenges, some personal  
8 challenges, even some health challenges. And we've done our  
9 best to have a process that worked with those and also  
10 maintained the option, whether through Chapter 11 or now, as  
11 is argued, through a Chapter 7 going-concern sale with an  
12 operating Chapter 7 Trustee to keep that going-concern value  
13 available to the benefit of Creditors and workers and the  
14 community that depends on this diner amongst many other  
15 typical and also somewhat unusual Parties-In-Interest here,  
16 both present in these proceedings while represented by  
17 counsel and, you know, absent but still, in a way, part of  
18 the picture.

19 I have to say that, at this point in these proceedings,  
20 I am constrained to conclude for the record for all the  
21 reasons reflected in the entire record, that good grounds  
22 have been established for the conversion of this Chapter 11  
23 case to one in Chapter 7 because, among other reasons, the  
24 deadline for the Debtor to confirm a Chapter 11 Plan has  
25 passed. Debtor's counsel acknowledged on the record that

1     that deadline is passed and also that a determination was  
2     made. I think the record reflects this in words, and it  
3     certainly reflects it in substance, not to make a motion  
4     again to extend that December 30th deadline because that path  
5     simply no longer is viewed objectively was one that would be  
6     a successful path for the Debtor. Sometimes, the most  
7     important decision you need to make is when it's time to  
8     change course. So with the benefit of counsel and counsel's  
9     advice, and counsel's steady hand that's where we find  
10    ourselves.

11           So, I do conclude that the case should be converted. I  
12    anticipate and hope, I have to say, that the -- when a  
13    Chapter 7 Trustee is appointed, it's a person with the  
14    appropriate qualifications to continue to operate this very  
15    valuable going-concern of the business and to, in that way,  
16    preserve value for a sale, a path to a sale, and then a sale  
17    through the bankruptcy process to pay Creditors to preserve  
18    the business, preserve the operation (indiscern.) the  
19    opportunities and the value and the net needs that this  
20    Debtor provides has been clear from the outset that those  
21    were a big part of the picture here.

22           That's to say that this isn't just any case. And I have  
23    to tell you that in almost 20 years now, 19 and a half to be  
24    -- maybe slightly less than 19 and a half, there's no case,  
25    certainly no Chapter 11 operating case is just any case.

1     There's no such thing as "just any case." But this case sure  
2     isn't just any case. And so probably since the motion number  
3     44 on the Docket, #33 on the calendar, is granted, I would  
4     ask -- Mr. Slome, it's your motion. If you could submit an  
5     appropriate Proposed Order, please circulate it to Ms. Kaylie  
6     and Mr. Khodorovsky, of course. Let us know when it's  
7     uploaded. We'll do our best to get it up on the Docket  
8     promptly.

9             Ms. Siderakis, I'm sorry this is where we are at this  
10     point. But I'm not sorry because I'm actually hopeful that  
11     this will turn out to be a good path forward for the Debtor,  
12     the Debtor's employees, the community, your family, and that  
13     everything that, you know, that'll come next in this -- in  
14     the next phase of the case. You know, we wouldn't be here,  
15     we wouldn't have these opportunities but for your hard work  
16     and your dedication and your family's dedication and your  
17     late husband's dedication to this business. So, I just --  
18     the record is not going to be complete without saying that on  
19     the record, and I mean it most sincerely. Thank you so much.

20             I'll be looking for that order. As to the -- I see your  
21     hand. Just one second. As to the Debtor's Cross-Motion,  
22     that is marked off and so ordered in view of the conversion  
23     of the case. Our Case Management Conference is marked off  
24     and so ordered. Is there anything further? I'm going to  
25     start with -- well, Ms. Kaylie, I see your hand first. Ms.

1 Kaylie, anything to add?

2 MS. KAYLIE: Your Honor --

3 THE COURT: Your hand went away.

4 MS. KAYLIE: No, it's just because I'm answering  
5 now. Your Honor, Rachel Kaylie representing the Debtor, for  
6 the record. I just want to make it -- ask Your Honor to make  
7 it clear for the record that the Secured Creditor's --  
8 landlord's motion is being granted to the extent of the  
9 conversion. Your Honor hasn't ruled on whether the lease was  
10 assumed or not assumed on that issue. I just want to --

11 THE COURT: I think that issue is moot at this  
12 point. Mr. Slome (indiscern.) it's your motion.

13 MS. KAYLIE: That's what I just wanted to make clear  
14 for the record.

15 THE COURT: I'll have to think about whether that  
16 has consequences in this context. But the -- another  
17 interesting issue is that I -- every time we have another  
18 hearing, I dive back into that end of the pool. I -- Mr.  
19 Slome, do you think that issue is -- does that  
20 (indiscern.) --

21 MR. SLOME: I don't think --

22 THE COURT: Maybe I have to think about it.

23 MR. SLOME: Thomas Slome, Cullen & Dykman. I don't  
24 think Your Honor actually ruled on the issue. I would say  
25 that --

1 THE COURT: No, that's correct.

2 MR. SLOME: Right. And I would say that the way --  
3 the best way to look at it is kind of like it's moot. It's  
4 that there is that possibility. Certainly, the Debtor put in  
5 opposition. I have my own views on that, of course. And  
6 then we have the second missed deadline, which I supplemented  
7 the record with, you know, pointing --

8 THE COURT: Yes, and that was -- there was not  
9 ambiguity with respect to that. That's clear.

10 MR. SLOME: Correct. So I think, for the benefit of  
11 -- whatever benefit it gives Ms. Kaylie or the Debtor, or the  
12 Debtor's principal, I don't -- you know, I think it's clear,  
13 and I can concede Your Honor didn't rule one way or the other  
14 as to whether the lease was deemed rejected. I'll also add  
15 something maybe to clean up the record is that we also asked  
16 for an Order Compelling Immediate Surrender. We don't want  
17 that at this point for all the reasons stated. We want the  
18 Chapter 11 -- Chapter 7 Trustee with an Operating Order to at  
19 least attempt to come up with a buyer and sell the diner.  
20 So, you know, maybe just for the purposes of the record,  
21 unless you think I should put it in the Order, I'd like to  
22 keep the Order simple and clean, so I'd prefer not. But we -  
23 - you know, my -- we would withdraw, without prejudice, any  
24 part of that motion seeking to compel the Debtor to surrender  
25 the premises to the landlord.

1           THE COURT: So the concept of withdrawal without  
2 prejudice, well, is -- was on my mind as well. In that  
3 motion, you seek conversion. At this point, taking into  
4 account the entire record, that's appropriate, and that  
5 motion is -- that piece of the motion is granted. Immediate  
6 surrender has been -- that request is withdrawn. The deemed  
7 rejected question may have some consequence and could  
8 conceivably have consequence in the context of what the  
9 Trustee has to sell and whether the Trustee has a lease or  
10 not. I don't know that I'm in a -- that I have thought  
11 through.

12           In fact, I do know that I have not thought through all  
13 the aspects of that in light of a conversion. There are  
14 arguments on both sides of whether the lease is deemed  
15 rejected, whether it's part of an integrated thing, and  
16 whether the integrated thing is of a nature that it then  
17 extends beyond the purely lease date. There's franchise  
18 cases that are not under a franchise provision of the Code  
19 but do seem to come up principally or maybe exclusively in  
20 the franchise context. You can tell, of course, that I was,  
21 again, you know, went back -- retraveled this path to get  
22 ready for today.

23           My impression is that that component of the relief that  
24 you had sought is not -- has not been withdrawn. I was going  
25 to ask, is that -- may I mark that withdrawn without

1     prejudice? Let's get into the next stage of the case. You  
2     can always bring that issue back if it turns out to be an  
3     issue with respect to property of the Estate. Mr. Slome,  
4     it's your motion.

5             MR. SLOME: Your Honor, Thomas Slome, Cullen &  
6     Dykman. I mean, I think that's fine. I mean, you could --  
7     in my opinion, you can only withdraw, like, a Motion to  
8     Convert or the Motion to Surrender. I've already withdrawn,  
9     without prejudice, the Motion to Surrender. I think Your  
10    Honor is right that Your Honor can grant the Motion to  
11    Convert without deciding that. So, I mean, obviously, it  
12    would benefit me in negotiations with the Trustee if you were  
13    to say the lease was rejected. But I don't think that would  
14    be fair to a Chapter 7 Trustee. It's not what we're looking  
15    to accomplish here. So as long as, you know, my right is  
16    preserved and a Chapter 7 Trustee's right is preserved and  
17    any other Party-In-Interest' rights are preserved on that  
18    issue because Your Honor did not need to decide it to grant  
19    this motion, that's how I would perceive it.

20            THE COURT: What I would be prepared to reflect on  
21    the record --

22            MR. KHODOROVSKY: Your Honor --

23            THE COURT: -- as you say in your order, is that,  
24    with respect to this motion --

25            MR. KHODOROVSKY: Your Honor --

1           THE COURT:  -- Ms. Kaylie, thank you for raising the  
2   issue by the way, based on the entire record, the Court  
3   concludes that good grounds have been established for the  
4   conversion of the Chapter 11 case to one under Chapter 7  
5   because, among other reasons, the deadline for the Debtor to  
6   confirm a Chapter 11 Plan has passed and cannot be extended.  
7   The balance of the relief requested in the motion is  
8   withdrawn, without prejudice.  Submit order and circulate it  
9   before you submit it.

10           MR. SLOME:  Yes, Your Honor.

11           THE COURT:  All right.  Thank you.  Thank you,  
12   everybody.

13           MR. KHODOROVSKY:  Your Honor?

14           THE COURT:  Yes?

15           MR. KHODOROVSKY:  Your Honor?  May I be heard?

16           THE COURT:  Mr. Khodorovsky.

17           MR. KHODOROVSKY:  Nazar Khodorovsky.  I know Your  
18   Honor has marked off the Status Hearing, and I fully agree  
19   with Your Honor about that.  I do think it may be necessary  
20   at this point, and I know maybe -- it's maybe putting the  
21   cart before the horse.  But there's a pending fee application  
22   in this case by the Morgan & Bley firm.  It hasn't been --

23           THE COURT:  Yes.

24           MR. KHODOROVSKY:  It's not been noticed.  I don't  
25   see it on the Docket, and --



1 THE COURT: No, it's not noticed for a date.

2 MR. KHODOROVSKY: -- I don't see it on the Court's  
3 calendar.

4 THE COURT: It's not on today's calendar.

5 MR. KHODOROVSKY: So, Your Honor, what I would like  
6 to respectfully ask, maybe it may make sense now to schedule  
7 a hearing date on that application so the Chapter 7 Trustee  
8 is aware of it and can weigh in.

9 THE COURT: Ms. Jackson, what would be the right way  
10 for that to happen? Would that be that the -- there could be  
11 a notice filed and we'll figure out a date and provide it?  
12 So perhaps the firm can follow up with Ms. Jackson. We need  
13 to get a Trustee in place in fairness to the Trustee. We  
14 need to let the Trustee get their feet on the ground in the  
15 case. And then absolutely. We would schedule a hearing for  
16 that. It was not noted when it was docketed. It was not  
17 docketed for a date. That's why there is no date, and --  
18 but, so that needs to be fixed because that'll be one of the  
19 things that needs to -- that does need to be heard to go  
20 forward.

21 But good point, Mr. Khodorovsky. Thank you. I hope  
22 that's clear when you go because, I mean, I don't docket,  
23 needless to say. But I understand that when you docket, one  
24 of the things you do is pick a date, and that didn't happen  
25 here. So we have the motion, which is on the Docket of the

1 case, which is helpful, but it hasn't yet -- it doesn't yet  
2 belong to a date. So with coordination with Ms. Jackson, we  
3 can take care of that. Ms. -- and I note that Mr. Morgan is  
4 nodding. Thank you very much. Ms. Kaylie, anything further?

5 MS. KAYLIE: I was actually going to ask about this  
6 -- the fees. I would -- I didn't realize that it hadn't been  
7 docketed because I actually filed objections, and so did the  
8 U.S. Trustee. Preliminarily, I would just ask that any final  
9 fee application for any party to date, at least whether final  
10 or interim, be provided by a certain date so that the Chapter  
11 7 Trustee can have a good idea of what the administrative  
12 costs are going to be.

13 THE COURT: Well, it's clearly an asset case, so I'm  
14 thinking will there be any bar date set? I -

15 MR. KHODOROVSKY: Your Honor, Nazar Khodorovsky for  
16 the U.S. Trustee. A Chapter 7 Trustee can always move to set  
17 an administrative bar date. Thank you, Your Honor.

18 THE COURT: Okay, I think that makes sense. We're  
19 talking about a phase of the case with a central participant,  
20 who has neither been identified nor put in place, and  
21 therefore, unsurprisingly, is not here. So we need to sort  
22 that. We need to get that -- that'll be among the things  
23 that needs to be addressed when the Trustee gets in place.  
24 It will be an interesting case for the Trustee and -

25 MR. MORGAN: May I ask a question?

1 THE COURT: -- and interesting case for everyone.

2 MR. MORGAN: May I ask a question?

3 THE COURT: You may state a question on the record.  
4 I don't know that I'll be able to answer it.

5 MR. MORGAN: Okay. I just -- I don't know if the --  
6 a bar date is set, whether our application, because it's  
7 already filed, is going to be considered "already filed"  
8 instead of filing it again.

9 THE COURT: A bar date typically corresponds to  
10 filing a claim. A claim in a --

11 MR. MORGAN: Yes.

12 THE COURT: -- fee app are two different kinds of  
13 things, so --

14 MR. MORGAN: Okay.

15 THE COURT: You know, the things that need to be  
16 done would need to be done. I would not let a bar date pass  
17 without filing a Proof of Claim relying on a motion if I were  
18 counsel, but I don't give legal advice. So I --

19 MR. MORGAN: I know.

20 THE COURT: I just --

21 MR. MORGAN: There's a procedure.

22 THE COURT: Broadly speaking, missing deadlines is  
23 not, you know -- has consequences, as we're learning today.

24 MR. MORGAN: I understand.

25 THE COURT: So good to -- and I understand there's

1 engagement on those issues already. I think we saw some -- a  
2 position of the United States Trustee. Anyway, is there  
3 anything else we can do today other than I say again, "Thank  
4 you," and I'm looking -- I will continue to count on your  
5 best efforts to move this forward in the best, most  
6 productive possible way, mindful of all the different  
7 interests that are a part of this bigger picture?

8 ALL: (No verbal response).

9 THE COURT: Nothing further? All right, thank you  
10 everybody.

11 MR. SLOME: Thank you, Judge.

12 THE COURT: In fact, I think there's one more matter  
13 we need to call, right?

14 ALL: Thank you, Your Honor.

15 THE COURT: Good luck.

16 (Court adjourned)

17

18 CERTIFICATION  
19 I, Lewis Parham, certify that the foregoing is a correct  
20 transcript from the electronic sound recording of the  
21 proceedings in the above-entitled matter.

22

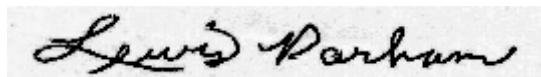
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Signature of Transcriber

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Date